
(2014) 01 AHC CK 0115

Allahabad High Court

Case No: C.M.W.P. No. 2338 of 2014

Dalbeer Kaur

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: Jan. 16, 2014

Citation: (2014) 4 AWC 3982

Hon'ble Judges: Anil Kumar Agarwal, J; Amreshwar Pratap Sahi, J

Bench: Division Bench

Advocate: Bhanu Bhushan Jauhari, Advocate for the Appellant; V.K. Birla, Vikas Budhwar and Jyotsana Srivastava, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Amreshwar Pratap Sahi and Anil Kumar Agarwal, JJ.

Heard Sri B.B. Jauhari, learned counsel for the petitioner, Sri Vikas Budhwar for the respondents-Petroleum Corporation, Sri V.K. Birla for respondent No. 5. and Ms. Jyotsna Srivastava for respondent No. 1.

2. The petitioner has come up questioning the correctness of the orders passed by the respondent-Corporation rejecting the representations of the petitioner which have arisen out of three rounds of litigation before this Court in previous writ petitions.

3. The petitioner's candidature has now been ultimately negated on two grounds. Firstly, that the land which has been offered by the petitioner is beside road side pit and as such is not accessible for the purpose of retail outlet dealership. The second ground which has been taken to reject the candidature of the petitioner is in relation to the disqualification clause as contained in Clause 5 of the guidelines for selection of retail outlet dealership which is extracted hereinunder:

"5. Disqualification.--The following are not eligible:

(a) Candidates convicted or against whom charges have been framed by a court of law for any criminal offence involving moral turpitude/economic offence (other than freedom struggle).

(b) Mentally unsound person/totally paralysed person.

(c) Signatory to an agreement of a R.O./S.K.O.-L.D.O. dealership/L.P.G. distributorship of any oil company terminated on the grounds of adulteration/malpractice.

(d) Guilty of wilfully giving wrong information."

4. So far as the first ground is concerned, Sri Jauhari submits that this ground was decided totally against the weight of evidence on record and is also clearly a discriminatory action inasmuch as the land of the respondent No. 5 was similarly situate and beside the same road. In such circumstances the award of 0 marks to the petitioner is erroneous.

5. So far as the second ground is concerned, Sri Jauhari has vehemently urged that the certificate which was issued in terms of the guidelines was a genuine certificate and was not a forged or a fake certificate. The guidelines even otherwise which have been reflected are in relation to the award of the dealership and the interpretation given by the respondent with regard to the contents of the said certificate for experience is also incorrect. He has invited the attention of the court to paragraph 29 of the writ petition.

6. Sri Budhwar and Sri Birla for the respondents contend that the information with regard to the experience certificate as contained therein was absolutely false as upon verification it was found that the commencement of the dealership from where experience was being claimed, itself was in 2005 and, therefore, to urge that the petitioner had experienced from the same establishment between 1.5.2003 to 30.9.2004 is false.

7. Having considered the submissions raised and having gone through the guidelines in this regard we find that a candidate would become ineligible and would stand disqualified as per Clause 5(d) in case the candidate is found to be guilty of wilfully giving wrong information.

8. In the present case, it is undisputed that the certificate was offered by the petitioner in which she has admitted the contents of the certificate, which are in relation to the experience alleged between 1.5.2003 to 30.9.2004. The said information has been found to be incorrect and false by the respondent-Corporation on the ground that the commencement of the filling station from where the certificate has emanated, itself was w.e.f. 30.11.2005, i.e., almost 1-1/2 years thereafter. Sri Jauhari submits that the commissioning may have taken some time and for that, if the certificate is invalid, the petitioner could have been awarded 0 marks, but the same cannot amount to any wilful wrong

information.

9. We are unable to agree inasmuch as the experience which was sought to be taken shelter of could not have been and was never obtained by the petitioner, inasmuch as, the filling station itself was commissioned on 30.11.2005. The information, therefore, contained in the certificate was obviously false and in such circumstances Clause 5(d) is clearly attracted. Consequently, the petitioner stood disqualified. It is therefore, not necessary to go into any other questions raised.

10. The petition lacks merit and is accordingly dismissed.